



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	Netherlands
Case Name/Title	
Court Name <i>(Both in English and in the original language)</i>	District Court of Arnhem (Rechtbank Arnhem)
Neutral Citation Number	AWB 10/26220 and AWB 10/26222
Other Citation Number	LJN BQ1202
Date Decision Delivered	14-04-2011
Country of Applicant/Claimant	Somalia
Keywords	Indiscriminate violence, Internal protection
Head Note (Summary of Summary)	The district court ruled that the respondent's change in policy regarding the internal protection alternative, namely omitting the requirement that an internal protection alternative is only possible in an area where the alien runs no risk and where safety is durable, was insufficiently motivated. With regard to Article 8 of the QD, it is also of importance whether it can be reasonably expected that the asylum seeker stays in that part of the country of origin concerned where there is no well-founded fear of persecution or no real risk of serious harm. In that context a durable security situation could be of importance.
Case Summary (150-500)	Not relevant.
<i>Facts</i>	The respondent (the Minister of Immigration and Asylum) refused to grant the applicants a temporary asylum permit on the grounds that their asylum stories were not credible and that there was an internal protection alternative in south and central Somalia (10-03-2011).
<i>Decision & Reasoning</i>	After establishing that the respondent rightfully considered the applicants' asylum stories as not credible, the district court reviewed the respondent's assessment that there was an internal protection alternative. According to Dutch policy in force at the time of judicial review, an internal protection alternative is available if: a) it concerns an area where there is no well-founded fear of persecution or a real risk of torture, inhuman or degrading treatment or punishment for the asylum seeker; b) the asylum seeker can enter that area safely; c) the asylum seeker can settle in the area and he can reasonably be expected to stay in that part of the country. However, requirement sub a) of the Dutch policy concerning an internal protection alternative at the time the respondent rejected the applicants' asylum appeals, read as follows: a) it concerns an area where the alien runs no risk and where safety is durable.



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	<p>The district court ruled that the respondent's change in policy regarding requirement sub a) of the internal protection alternative was insufficiently motivated.</p> <p>The district court stated:</p> <p>"It is unclear why the aforementioned Article 8 of the QD should lead to a change in policy to this extent. For it can be concluded from that article that it is not only of importance whether there is no well-founded fear for persecution or no real risk of serious harm in the region of the country of origin concerned, but also whether it can be reasonably expected that the asylum seeker stays in that part of the country. In that context a durable security situation could be of importance."</p> <p><i>"Niet duidelijk is immers waarom voormeld artikel 8 van de Definitierichtlijn zou moeten leiden tot een aanpassing van het beleid in zoverre. Uit dat artikel volgt immers dat niet alleen van belang is of er in het desbetreffende deel van het land van herkomst geen gegronde vrees bestaat voor vervolging of geen reëel risico op ernstige schade doch ook of van de asielzoeker redelijkerwijs kan worden verwacht dat hij in dat deel van het land blijft. In dat kader zou de bestendigheid van de veiligheidssituatie van belang kunnen zijn."</i></p> <p>The district court ruled that the respondent could not, without any further motivation, have reached the decision that the applicants could rely on internal protection in south and central Somalia.</p>
<p><i>Outcome</i></p>	<p>The appeals are well-founded. The district court annulled the underlying decisions.</p>